

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 23365 of 2004

Between:

Vadde Narasaiah, S/o. Bhadraiah, Occ: Clerk,
C/o. Kethepalli Primary Agricultural Cooperative Society Limited, Kethapalli Mandal,
Nalgonda District.

.... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by its Secretary,

Cooperation Department, Secretariat, Hyderabad.

2 The Commissioner and Registrar of Cooperative Societies,

Nampally, Hyderabad.

3 The District Cooperative Officer, Nalgonda, Nalgonda

District.

4 The Divisional Cooperative Officer, Nalgonda, Nalgonda

District.

5 The Kethepalli Primary Agricultural Cooperative Society

Limited, Kethepalli Mandal, Nalgonda District. Rep. by its

P.I.C.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, or order or direction more particularly one in the nature of Writ of Mandamus by declaring the action of the respondents 1 to 4 in not passing the orders approving the staffing pattern fixed by the 5th respondent vide Resolution

No.1 dated 26-7-2004 as illegal, arbitrary and violative of the provisions of the A.P. Cooperative Societies Act, 1964 and Rules made thereunder and also violative of G.O.Ms.No.94 Agriculture and Cooperation (Coop-VI) Department, dated 28-2-2004 besides violative of the Judgment of this Hon'ble Court in W.P. No. 3171/2003 dated 30-8-2004 and consequently direct the respondents to continue the petitioner in 5th respondent society as the Petitioner is well within the staffing pattern fixed as per the A.P. Cooperative Societies Act, 1964 and Rules made thereunder.

Counsel for the Petitioner: MR.V.AJAYAKUMAR

Counsel for the Respondents: GP FOR COOPERATION

Smt. A.VIJAYALAKSHMI

The Court at the admission stage made the following:

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ORDER:

This writ petition is filed seeking a writ of *Mandamus* declaring the action of the respondents 1 to 4 in not passing the orders approving the staffing pattern fixed by the 5th respondent vide Resolution No.1 dated 26.7.2004 as illegal, arbitrary and violative of the provisions of the A.P. Cooperative Societies Act, 1964 and the Rules made thereunder.

2. Heard learned counsel for the petitioner and the learned Government Pleader for Cooperation.

3. A detailed counter affidavit has been filed by respondents 1 to 4. The grievance of the petitioner is that even according to the resolution passed by the first respondent, petitioner comes within the purview of Section 116-C of the A.P. Cooperative Societies Act, 1964 (for short "the Act") and therefore, he cannot be terminated. On the other hand, learned counsel for respondents contended that the staffing pattern has to be approved by respondents 1 to 4, in accordance with law.

4. There cannot be any dispute that the staffing pattern has to be in accordance with Section 116-C of the Act. The staffing pattern and pay scales have to be approved by the Registrar of Cooperative Societies. It is also made clear that the petitioner is entitled for the salary subject to 2% of the working capital or 30% of the gross profit, whichever is less. Therefore, depending upon all the facts and circumstances and taking into consideration the profit and net income that may be derived from the 5th respondent society, appropriate decision has to be taken by respondents 1 to 4, in accordance with law.

5. Therefore, without entering into the merits of the case, the writ petition is disposed of with a direction to respondents 2 and 3 to take appropriate decision in accordance with law within a period of six weeks from the date of receipt of copy of this order. Till the date of filing the writ petition, petitioner has not been terminated, but the salary of the petitioner has been reduced to the limit specified in the benchmark levels of the G.O.Ms.No.94 dated 28.2.2004. So, it is appropriate to direct the 4th respondent to continue the petitioner till any decision is taken.

6. The writ petition is disposed of accordingly. No costs.

K.C.BHANU, J

Dated: 04.04.2005

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To

1 The Secretary, Government of Andhra Pradesh,

Cooperation Department, Secretariat, Hyderabad.

2 The Commissioner and Registrar of Cooperative Societies,

Nampally, Hyderabad.

3 The District Cooperative Officer, Nalgonda, Nalgonda District.

4 The Divisional Cooperative Officer, Nalgonda, Nalgonda

District.

5 The P.I.C., Kethepalli Primary Agricultural Cooperative

Society Limited, Kethepalli Mandal, Nalgonda District.

6 Two CCs to the G.P for Cooperation, High Court of A.P.,

Hyderabad(O.U.T).

7 2 CD copies